

## CITY-WIDE POLICY

## ENCROACHMENTS IN THE PUBLIC RIGHT-OF-WAY

Adopted  
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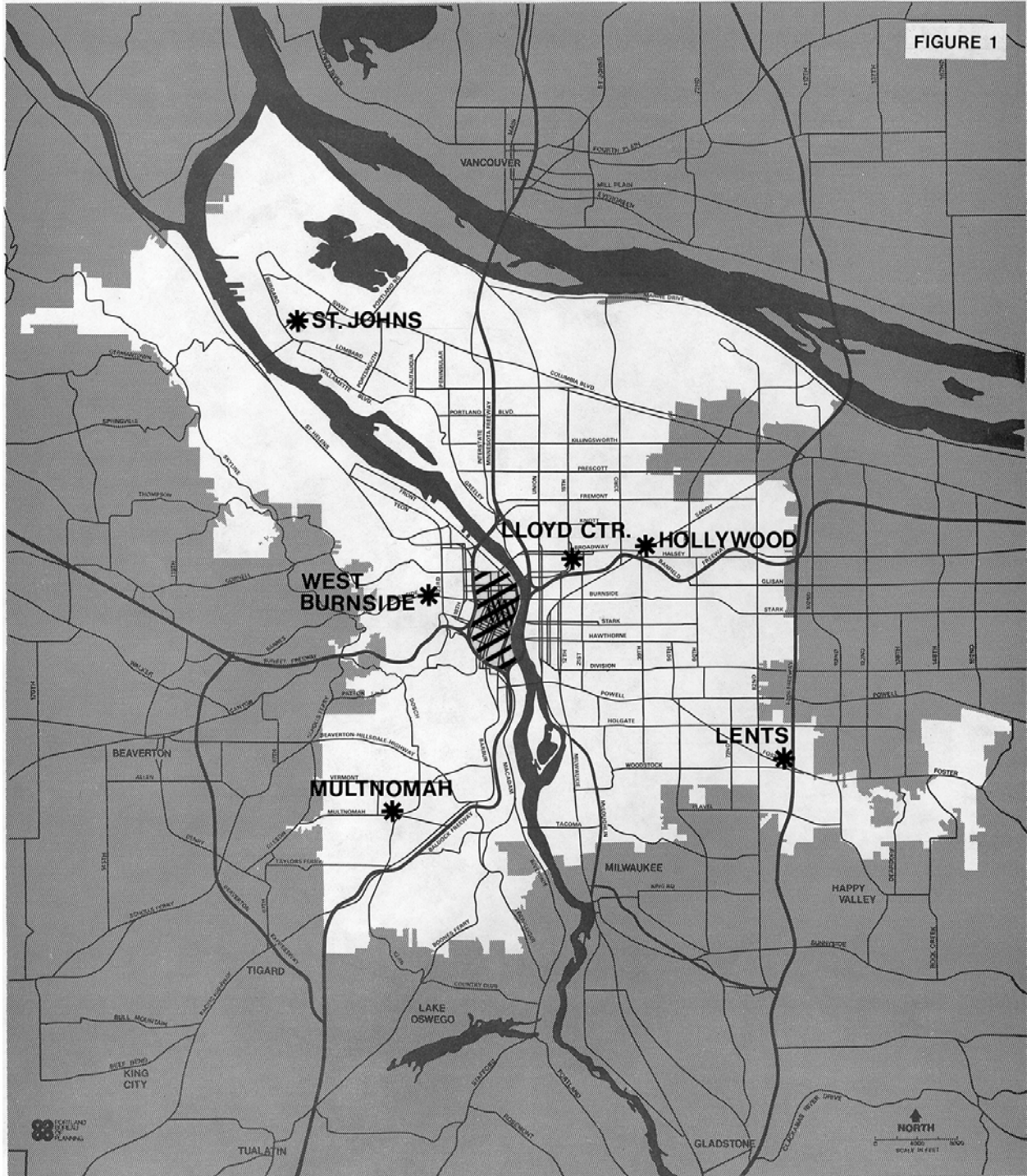
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FIGURE 1



## CITY DISTRICTS

-  DOWNTOWN
-  RETAIL CORE
-  PEDESTRIAN



## CHAPTER ONE: CITY-WIDE POLICY ON ENCROACHMENTS IN THE PUBLIC RIGHT-OF-WAY

### I. INTRODUCTION

This policy is intended to provide guidelines for the review of private and public structures in the public rights-of-way. The document consists of general policy statements and standards for the construction of above-grade, at-grade, and below-grade structures in the public rights-of-way. Due to varying importance of the public rights-of-way for traffic and pedestrian movements, open space, light and air, and amenities in different parts of the City, four specific district policies are proposed. The districts are shown in Figure 1 and described as follows:

1. The Downtown Retail Core: The area enclosed by SW Washington on the north, SW 10th on the west, SW Yamhill on the south, and SW 3rd Avenue on the east.
2. Downtown Portland: The area enclosed by the west bank of the Willamette Rivers the Broadway Bridge and Broadway Ramp, Hoyt Street, Stadium Freeway and Marquam Bridge, and excluding the Downtown Retail Core.
3. Pedestrian Districts: Designated in the Arterial Streets Classification Policy and including the Hollywood Business District, Lents Business District, Lloyd Centers Multnomah Business District, St. Johns Business District, and the West Burnside business area.
4. City-Wide District: The areas of the City of Portland not specifically covered by the above named districts.

The District Policies are intended to guide the public review of encroachments to insure that the public use of the right-of-way is protected and that the characteristics of each district are preserved.

The General and District Policies together should be used as the basis for determining the approval, disapproval and characteristics of an encroachment. Procedures for application and public review processes are contained in Chapter Two of this document.

### II. DEFINITIONS

For the purpose of this policy, the following definitions will apply to encroachments. "Encroachments" are defined as private structures in the public rights-of-way.

#### A. Above-Grade Encroachments

1. Type I Skystructure: A structure spanning the rights-of-way (intended only for the movement of people or goods) whose width is 14 feet or less, and meeting the standards and policies of the appropriate district.
2. Skywalk: A Type I or II skystructure used only for pedestrian movement, and not containing furniture.
3. Type II Skystructure: A structure spanning the right-of-way with a width ranging from 14 feet to 60 feet, or having a width less than 14 feet but containing a function other than the movement of people and goods, or having a height greater than 12 feet.
4. Type III Skystructure: A structure spanning the right-of-way with a width of 60 feet or more, or a height greater than 12 feet.
5. Building Projection: A part of a structure or an appendage that extends into the right-of-way above grade and that is not a sign, and is not specifically covered under Title 24 of the City Code.
6. Through-Building Arcade: A concourse or corridor through a building which connects skywalks. Building arcades would normally be used in conjunction with a network of skywalks.
7. Visual Focal Points: Architecturally-significant buildings or structures that help serve to identify downtown, downtown districts, or to provide orientation within the downtown.
8. Retail Uses: All uses and operations dealing directly with the ultimate consumer. All goods repaired, produced, or processed and all materials handled shall be sold at retail on the premises or delivered direct.
  - a. For the purpose of this policy, retail uses defined in Group 1 and Group 2 in Section 33.44.020 of the City Codes shall be the retail uses necessary for the City's consideration for this policy.
  - b. Restaurants, tea rooms, cafes, taverns, bars and cocktail lounges shall be considered retail uses.
  - c. Banks, loan offices travel agencies, business and professional offices, and building lobbies are not considered retail uses for this policy.
9. Consumer Service Uses: Include retail uses defined above, #8, and the following additional uses:



- a. Auditorium or other public assembly rooms; banks, loan companies or other financial institutions, commercial amusements; libraries; medical or dental offices; museums; schools public or private; and theaters.
  - b. Building and hotel lobbies, and business and professional offices are not considered consumer services for this policy.
10. Retail Buildings: A building which meets the following criteria:
- a. Seventy-five percent of the ground level use must be retail uses, as defined above.
  - b. Seventy-five percent of a second level (basement or second floor, depending on the encroachment) must be retail uses, and
  - c. A third level whose major use is retailing is encouraged.
11. Consumer Service Building: A building which meets the following criteria:
- a. Seventy-five percent of the ground level use must be consumer services uses as defined above.
  - b. Seventy-five percent of a second level (basement and second - floor, depending on the encroachment) must be consumer service uses, and
  - c. A third level whose major use is consumer uses is encouraged.

B. Below-Grade Encroachments

- 1. Underground Walkway: Below-grade pedestrian walkway crossing the right-of-way between buildings.
- 2. Underground Mall: Below-grade structures within a right-of-way extending beyond the curbline designed to accommodate uses normally contained in or ancillary to a building, such as shops, offices, restaurants, or plazas. Underground malls may serve pedestrian movements across a right-of-way.
- 3. Building Vaults: Below-grade building extensions into the rightof-way no further than the curbline.
- 4. Underground Parking: Below grade parking and access structures.

5. Other Underground Structures: Below-grade structures within the right-of-way not in-categories above. Such structures would normally be used for the movement of either vehicles or goods.
6. Retail Uses: Same as A. 8
7. Consumer Service Uses: Same as A. 9

C. At-Grade Encroachments

19. Street Encroachment: A permanent part of a structure or an appendage that extends into the right-of-way at grade and is not a sign or street improvement.
20. Arcade: A covered pedestrian walkway with supporting columns extending from the building into the public right-of-way.

III. GENERAL POL IC I ES

- A. The public right-of-way is an important resource and the utility of the right-of-way shall not be impaired. The City shall discourage private ownership or use in the public right-of-way.
  1. The public right-of-way provides for the movement of pedestrian and vehicles, and for open space, landscaping, light, air, and vistas. As an important public resource, the public right-of-way should not be easily given up for private ownership or use.
  2. The street level sidewalks are the primary pedestrian circulation system and encroachments should not be permitted which adversely affect this system.
- B. As a public resource, encroachments shall only be permitted as part of a project fulfilling a significant public goal of the Comprehensive Plan, the Downtown Plan, or other adopted Plans or Policies. Encroachments must be in conformance with the City objectives for promoting the "Portland Character" as defined by the rivers, parks, vistas, buildings of architectural significance and other important visual images, as defined by the Comprehensive Plan, Downtown Plans Development Regulations, and Design Guidelines or other neighborhood or area plans or guidelines.
- C. In order to receive City approval for encroachments, an applicant must demonstrate a public benefit which cannot be achieved without the encroachment.

- D. Final approval of encroachments in the public right-of-way rests with the City Council. The management of encroachments is currently assigned to and should remain with the City Engineer.
1. The Planning Commission, Hearings Office, Design Committee, or Historical Landmarks Commission reviews proposed encroachments and advises the City Engineer on issues regarding design, aesthetics, views, and interpretation of City policies. This review process will be based on the guidelines and standards contained in this Section and the appropriate district section of this policy.
  2. The review and conditions for approval of encroachments are described in Chapter Two of this policy.
  3. Encroachments approved under this policy must also meet the requirements of all applicable City Codes.

#### IV. DOWNTOWN-RETAIL CORE POLICIES AND STANDARDS

##### A. General Policies

1. In the Downtown Retail Core, the sidewalks shall retain their role as the primary pedestrian system.
2. The intent of any permitted encroachments in the Downtown Retail Core shall be the promotion of retail growth, development, retention and stability so as to enable the retail core to become and remain regionally competitive. Improvements that are not substantially consistent-with the intent of these goals should be accommodated outside the public right-of-way so as;to not adversely impact the sidewalk's role as the primary pedestrian system.
3. To protect the sidewalk as the primary pedestrian systems skystructures and underground walkways shall not be built in lieu of at-grade improvements. Improvements to the immediate street level pedestrian environment and circulation system shall be made prior to, or in conjunction with the above-grade, or below-grade improvements.
  - a. To enhance the sidewalk pedestrian environment, the following options should be explored:
    - 1) rain protection over sidewalks, e.g. covered walkways, awnings, and arcades;
    - 2) street furniture, signing, lighting, tree planting, public art, and other amenities to enhance the pedestrian environment; and

- 3) sidewalk widening and/or street closures to minimize pedestrian-traffic conflicts and increase pedestrian space.
4. In the Downtown Retail Core, the City Engineer's review of encroachments will require the advice of the following citizens review committees to insure that the proposed encroachments meet the goals and guidelines of the Downtown Plans the Downtown Design Guidelines, as well as Chapter One, Sections III, IVY and VIII of this policy.
  - a. Design Committee shall review all above- and at-grade encroachments, and underground malls and walkways.
  - b. The Planning Commission shall review all above-grade encroachments, and underground malls and walkways.

B. Policies for Above-Grade Encroachments

1. Skystructures can block views and disrupt the special character and identity of streets in the Downtown Retail Core. Type I skystructures can only be permitted if the applicant demonstrates to the City's satisfaction that the encroachment:
  - a. is essential to the project's function or economic feasibility,
  - b. connects buildings which are retail, or connects buildings which are retail with short term public parking facilities
  - c. is used only for pedestrian movement,
  - d. is open to the general public, and :
  - e. meets the policies of Chapter One, Sections III and IV and the Standards in Section VIII of this policy.
2. To preserve significant views in downtown, the following view categories and policies are established:
  - a. skystructures shall be prohibited over streets designated as Primary View Corridors, identified in Fig. 2, except as noted in IV. B. 3. below,
  - b. skystructures shall be discouraged in the secondary view corridors, identified in Fig. 2.

- c. skystructures shall be discouraged where they block views to visual focal points, listed in Table One and mapped in Fig. 2.
- 3. To provide for continuity of access, a Type I skystructure may be permitted over a View Corridor, identified in Fig. 2, only if the skystructure meets all other conditions of Chapter One, Section III, IVY and VIII of this policy, and is limited to the absolute minimum needed for continuity. On those portions of SW Broadway, SW Sixth, and SW Fifth Avenues within the retail core, only one skywalk may be permitted to fulfill the need for continuity of access.
- 4. Because several skystructures on a street can create a tunnel or stacking effect which limits all views, the construction of skystructures on consecutive blocks of the same street shall be discouraged. As general guidelines, no more than one skystructure per five blocks should be permitted and no more than one skystructure shall be permitted per block face.
- 5. A Type II skystructure is discouraged and can only be permitted if the following additional requirement is met; the applicant must demonstrate to the City's satisfaction that a Type II skystructure, with a maximum width of 20 feet, can only be permitted if the greater width is needed to accommodate the projected pedestrian flow.
- 6. Type III skystructures shall be prohibited.
- 7. Building projections are discouraged and can only be permitted if the following additional condition is met.

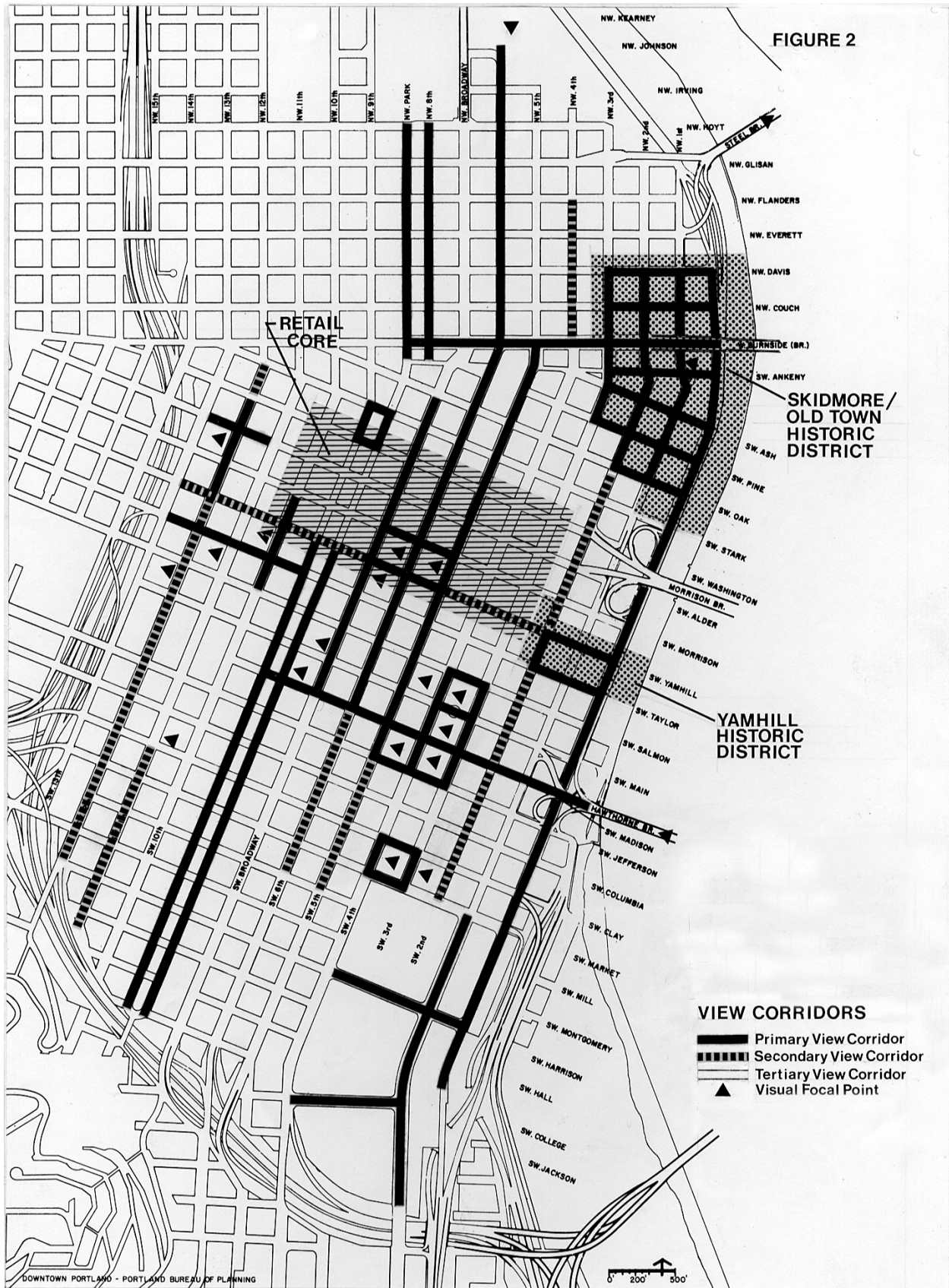


Table One  
Visual Focal Points

1. Union Station
2. Steel Bridge
3. Hawthorne Bridge
4. Skidmore Fountain 5. Jackson Tower
6. Paramount Theatre
7. First Congregational Church
8. Calvary Presbyterian Church
9. Multnomah County Library
10. First Baptist Church
11. First Unitarian Church
12. First Presbyterian Church
13. City Hall
14. Chapman-Lownsdale/Elk Fountain/Terry Shrunken Park
15. Forecourt Fountain
16. County Courthouse
17. Pioneer Courthouse
19. Civic Auditorium
20. O'Bryant Park
- a. The applicant must demonstrate to the City's satisfaction that the building projection is needed for the economic feasibility or function of the project, and that other alternatives were explored and could not meet the project's needs.

- b. The building projection clearance of the public right-of-way shall be 17 feet 6 inches. A higher clearance can be required by the City depending on the width and length of the projection in order to accommodate the following sidewalk uses:
    - 1) clearance for street trees,
    - 2) clearance for maintenance equipment to repair utilities located under the sidewalk.
  - c. The projection shall avoid excessive blockage of natural sunlight for pedestrians on the sidewalks and avoid dark, tunnelliike appearance.
  - d. Columns in the public right-of-way to support the building - projection shall be discouraged.
- 8. The construction of all above-grade encroachments in the retail core shall be without public assistance-\*
- 9. For all proposed skywalks in the Downtown Retail Core the Planning Commission shall advise the City Engineer on the following issues:
  - a. The Planning Commission shall determine whether a building is retail and could be connected by a skystructure.
  - b. The Planning Commission shall determine whether the need for continuity of access requires provisions for through-building arcades.

C. Policies For Below-Grade Encroachments

- 1. Below-grade encroachments can only be permitted if the applicant demonstrates to the City's satisfaction that the structure meets the requirements of Chapter One, Sections III and IV of this policy.
- 2. In the Downtown Retail Cores underground walkways shall not be permitted.
- 3. Continuous underground retail connections under the public rightof-way can only be-permitted if the applicant demonstrates to the City's satisfaction that the encroachments:
  - a. is essential to the project's function or economic feasibility
  - b. connects buildings which are predominantly retail, and



c. is open to the general public.

4. For all proposed continuous underground retail connections in the Downtown Retail Core, the Planning Commission shall advise the City Engineer and determine whether the buildings connected are retail.

D. Policies for At-Grade Encroachments

1. At-Grade encroachments can only be permitted if the applicant demonstrates to the City's satisfaction that the structure meets the requirements of Section III and IV of this policy.
2. At-Grade encroachments that displace the sidewalk away from the curbline shall maintain a sidewalk width specified in IVY D. 3.
3. In the Downtown retail core, a 10-foot unobstructed sidewalk shall be the standard. An unobstructed 8-foot may be permitted in special circumstances.
4. At-grade encroachments shall be permitted by revocable permit.
5. In no case shall an encroachment be located within two feet of the curbline.

V. DOWNTOWN POLICIES

A. General Policies

1. In Downtown, the sidewalks shall retain their role as the primary pedestrian system.
2. The intent of any permitted encroachment shall be to enhance Downtown's role as the leading center for retail goods and consumer services. Improvements that are not substantially consistent with these goals shall be accommodated outside the public right-of-way so as to not adversely impact the sidewalk's role as the primary pedestrian system.
3. In the Downtown Industrial area (MX Zone), the intent of any permitted encroachment shall be to maintain manufacturing, warehousing and wholesaling supportive of downtown activities.
4. To protect the sidewalk as the primary pedestrian system, skystructures and underground walkways shall not be built in lieu of at-grade improvements. Improvements to the immediate street level pedestrian

environment and circulation system shall be made prior to, or in conjunction with the above-grade, or below-grade improvements.

- a. To enhance the sidewalk pedestrian environment, the following options should be explored:
  - 1) rain protection over sidewalks, e.g. covered walkways, awnings, and arcades;
  - 2) street furniture, signings, lighting, tree planting, public art, and other amenities to enhance the pedestrian environment, and
  - 3) sidewalk widening and/or street closures to minimize pedestrian-traffic conflicts and increase pedestrian space.

- 5. In the Downtown, the City Engineer's review of encroachments will require the following advice to insure that the proposed -encroachment meets the goals and guidelines of the Downtown Plan, and Downtown Design Guidelines, as well as Chapter One, Sections III, V and VIII of this policy.

- a. The Design Committee shall review all above-, at-grade encroachments, and underground walkways.
- b. The Planning Commission shall review all building projections.
- c. The Historical Landmarks Commission shall review all encroachments in Historic Districts and to Historic Landmarks.

B. Policies for Above-Grade Encroachments

- 1. Skystructures can block views and disrupt the special character and identity of streets in Downtown. Type I skystructures can only be permitted if the applicant demonstrates to the City's satisfaction that the encroachment:
  - a. Is essential to the project's function or economic feasibility,
  - b. Connects buildings which are consumer services (see Section II for definition) or connects consumer services buildings with short-term public parking facilities.
  - c. Meets a public goal of the Downtown Plan.
  - d. Is used only for pedestrian movement, and

- e. Meets the policies of Chapter One, Sections III, V, and standards of Section VIII of this policy.
2. To preserve significant views in Downtown, the following view categories and policies are established:
  - a. Skystructures shall be prohibited over streets designated as Primary View Corridors, identified in Fig. 2.
  - b. Skystructures shall be prohibited in the downtown Historic Districts, identified in Fig. 2.
  - c. Skystructures shall be discouraged over streets designated as Secondary View Corridors, identified in Fig. 2.
  - d. Skystructures shall be discouraged when they block views to visual focal points, listed in Table One and mapped in Fig. 2.
3. Because several skystructures on a street can create a tunnel or stacking effect which limits all views, the construction of skystructures on consecutive blocks of the same street shall be discouraged. As general guidelines, no more than one skystructure per five blocks should be permitted and no more than one skystructure shall be permitted per block face.
4. A Type II skystructure is discouraged and can only be permitted if the following additional requirement is met; the applicant must demonstrate to the City's satisfaction that a Type II skystructure, with a maximum width of 20 feet, can only be permitted if the greater width is needed to accommodate the projected pedestrian flow.
5. Type III skystructures shall be prohibited.
6. Building projections are discouraged and can only be permitted if the following conditions are met; in addition to the conditions in Chapter One Sections III and V.
  - a. The applicant must demonstrate to the City's satisfaction that the building projection is needed for the economic feasibility or function of the project, and that other alternatives were explored and could not meet the project's needs.
  - b. The building projection's clearance over the public right-of-way shall be 17 feet 6 inches. A higher clearance can be required by the

City, depending on the width and length of the project in order to accommodate the following sidewalk uses:

- 1) clearance for street trees,
  - 2) clearance for maintenance equipment to repair utilities located under the sidewalk.
- c. The projection shall avoid excessive blockage of natural sunlight for pedestrians on the sidewalks and avoid dark, tunnel-like appearance.
  - d. Columns in the public right-of-way to support the building projection shall be-discouraged.

C. Policies for Below-Grade Encroachments

1. Below-grade encroachments can only be permitted if the applicant demonstrates to the City's satisfaction that the encroachments meet the requirements of Chapter One, Sections III and V of this policy.
2. Underground walkways can only be permitted if the applicant demonstrates to the City's satisfaction that the encroachment:
  - a. is essential to the project's function or economic feasibility,
  - b. connects buildings which are consumer services (see Section II for definition) or connects consumer services buildings with short-term public parking facilities.
  - c. meets a public goal in the Downtown Plan,
  - d. is used only for pedestrian movement, and
  - e. meets the policies of Chapter One, Sections III~ V, and standards of Section VIII of this policy.
3. In the Downtown, underground malls with retail uses shall be prohibited.

D. Policies for At-Grade Encroachments

1. At-Grade encroachments can only be permitted if the applicant demonstrates to the City's satisfaction that the structure meets the requirements of Chapter One-Sections III and V of this policy.

2. At-grade encroachments that displace the sidewalk away from the curbline shall maintain a sidewalk width specified in V. D. 3.
3. In Downtown a 10-foot unobstructed sidewalk width shall be the standard. An unobstructed 8-foot may be permitted in special circumstances.
4. At-grade encroachments shall be permitted by revocable permit.

## VI. PEDESTRIAN DISTRICT POLICIES

### A. General Policies

1. Pedestrian Districts are intended to provide for pedestrian movements, use of street space for pedestrian activities and good access to transit facilities and parking facilities, within areas of heavy pedestrian usage such as neighborhood commercial districts.
2. In Pedestrian Districts the sidewalks shall retain their role as the primary pedestrian system.
3. The intent of encroachments when permitted in Pedestrian Districts shall be to preserve and reinforce the stability and diversity of the designated district in order to attract and retain long term residents and businesses and to insure compatibility with the surrounding area. Improvements not substantially consistent with these goals should- be accommodated outside the public right-of-way so as to not adversely impact the sidewalk as the primary pedestrian system.
4. To protect the sidewalk as the primary pedestrian system, skystructures and underground walkways shall not be built in lieu of at-grade improvements. Improvements to the immediate street level pedestrian environment and circulation system shall be made prior to, or in conjunction with the above-grade or below-grade improvements.
  - a. To enhance the sidewalk pedestrian environment, the following options should be explored.
    - 1) rain protection over sidewalks, e.g. covered walkways, awnings, and arcades;
    - 2) street furniture, signing, lighting, tree planting, public art, and other amenities to enhance the pedestrian environment, and
    - 3) sidewalk widening, and/or street closures to minimize pedestrian-traffic conflicts and increase pedestrian space.

5. In Pedestrian Districts, the City Engineer's review of encroachments will require the advice of the following citizens review committees to insure that the proposed encroachment meets the coal and guidelines of the Comprehensive Plan and other adopted area plans and policies, as well as Chapter Ones Sections III, VI and VIII of this policy.
  - a. Design Committee shall review all above-, at-grade encroachments, and underground walkways.
  - b. The Planning Commission shall review building projections.
  - c. The Historical Landmarks Commission shall review all encroachments in Historic Districts and to Historic Landmarks.

B. Policies for Above-Grade Encroachments

1. Skystructures can block views and disrupt the special character and identity of streets in Pedestrian Districts. Type I skystructures can only be permitted if the applicant demonstrates to the City's satisfaction that the encroachment:
  - a. Is essential to the project's function or economic feasibilityf
  - b. Connects buildings which are consumer services (see Section III for definition), or connects consumer service buildings-with short-term public parking facilities;
  - c. meets a public goal of the Comprehensive Plan, and other -adopted policies and area plans;
  - d. is used only for pedestrian movement, and
  - e. meets the policy of Chapter One, Sections III,- VI and standards of Section VIII of this policy.
2. Several skystructures on a street can create Stunned or stacking effect which limits all views, the construction of skystructures on consecutive blocks of the same street shall be discouraged. As general guidelines, no more than one skystructure per five blocks should be permitted, and no more than one skystructure shall be permitted per block face.
3. A Type II skystructure is discouraged and can only be permitted if the following additional requirement is met; the applicant must demonstrate to the City's satisfaction that a Type II skystructure, with a maximum width

of 20 feet, can only be permitted if the greater width is needed to accommodate the projected pedestrian flow.

4. Type III skystructures shall be prohibited.
5. Building projections are discouraged and can only be permitted if the following additional conditions are met:
  - a. The applicant must demonstrate to the City's satisfaction that the building projection is needed for the economic feasibility or function of the project, and that other alternatives were explored and could not meet the project's needs.
  - b. The building projection's clearance over the public right-of-way shall be 17 feet 6 inches. A higher clearance can be required by the City, depending on the width and length of the projection in order to accommodate the following sidewalk uses:
    - 1) clearance for street trees
    - 2) clearance for maintenance equipment to repair utilities located under the sidewalk.
  - c. The projection shall avoid excessive blockage of natural sunlight for pedestrians on the sidewalks and avoid dark, tunnellike appearance.
  - d. Columns in the public right-of-way to support the building projection shall be discouraged.

C. Policies for Below-Grade Encroachments

1. Below-grade encroachments can only be permitted if the applicant demonstrates to the City's satisfaction that the encroachment meets the requirements of Chapter Ones Sections III and VI of this policy.
2. Underground walkways can only be permitted if the applicant demonstrates to the City's satisfaction that the encroachment:
  - a. Is essential to the project's function or economic feasibility,
  - b. Connects buildings which are consumer services (see Section III for definition) or~connects consumer service buildings with short-term public parking facilities,

- c. meets a public goal of the Comprehensive Plan, and other adopted policies-and area plans;
  - d. is used only for pedestrian movement, and
  - e. meets the policy of Chapter One, Sections III, VI and design standards of Section VIII of this policy
3. In the Pedestrian Districts, underground malls with retail uses shall be prohibited.

D. Policies for At-Grade Encroachments

- 1. At-grade encroachments can only be permitted if the applicant demonstrates to the City's satisfaction that the structure meets the requirements of Chapter Ones Sections III and VI of this policy.
- 2. At-grade encroachments that displace the sidewalk away from the curbline shall maintain a sidewalk width specified in VI. D. 3.
- 3. In Pedestrian Districts, an 8 foot unobstructed sidewalk width shall be standards
- 4. At-grade encroachments-shall be permitted by revocable permit.

VII. CITY-WIDE DISTRICT POLICIES

A. General Policies

- 1. The intent of any permitted encroachment located in the City, and not in the Downtown, Pedestrian Districts, and the Downtown Retail Core, shall be to preserve and reinforce the stability of the City's neighborhoods, industrial areas and institutional uses, in order to ensure the City's economic vitality and liveability, and provide for the public safety. Improvements not substantially consistent with the intent of these goals should be accommodated outside the public right-of-way so as to not adversely impact the sidewalk as the primary pedestrian system.
- 2. In the City-wide districts the City Engineer's review of encroachments will require the advice of the following citizen's review committees to ensure that a proposed encroachment meets the goals of the Comprehensive Plan and other adopted City policies and Area Plans, as well as Chapter One, Sections III and VII and the standards in VIII of this policy.
  - a. Design Committee shall review all Type II and Type III skystructures and building projections.



- b. The Planning Commission shall review all building projections.
- c. The Historical Landmarks Commission shall review encroachments in historic districts, conservation districts, and historic landmarks.

B. Above-Grade Encroachment Policies

1. A Type I skystructure in the City-wide District can only be permitted if the applicant demonstrates to the City's satisfaction that the encroachment meets the policies of Chapter One, Section III and VII and the standards of VIII of this policy.
2. A Type II skystructure can only be permitted if the following additional requirements are met; the applicant must demonstrate that the proposed structure can meet the standards for air quality and light levels beneath the structure, contained in Chapter One, Section VIII. A. 15.
3. Type III skystructures are discouraged and can only be permitted if the following additional conditions are met:
  - a. The applicant must demonstrate to the City's satisfaction that the structure is needed for the economic feasibility and function of the project, and that other alternatives were explored and could not meet the project's needs.
  - b. The applicant must demonstrate that the structure can meet the standards for air quality, noise, light level, wind beneath the structure.
4. Building projections are discouraged and can only be permitted if the following additional conditions are met:
  - a. The applicant must demonstrate to the City's satisfaction that the building projection is needed for the economic feasibility or function of the project, and that other alternatives were explored and could not meet the project's needs.
  - b. The building projection's clearance over the public rightof-way shall be 17 feet, 6 inches. A higher clearance can be required by the City, depending on the width and length of the project, in order to accommodate the following sidewalk uses:
    - 1) clearance for street trees,

- 2) clearance for maintenance equipment to repair utilities located under the sidewalk.
- c. The projection shall avoid excessive blockage of natural sunlight for pedestrians on the sidewalk and avoid dark, tunnel-like appearance.
- d. Columns in the public right-of-way to support the building projection shall be discouraged.

C. Policies for Below-Grade Encroachments

1. Below-grade encroachments can only be permitted if the applicant demonstrates to the City's satisfaction that the encroachments meet the policies in Chapter One -Sections III and VII and standards in VIII of this policy

D. Policies for At-Grade Encroachments

1. At-grade encroachments can only be permitted if the applicant demonstrates to the City's satisfaction that the encroachment meets the policies of Chapter One, Sections III and VII of this policy.
2. At-grade encroachments that displace the sidewalk away from the curbline shall maintain a sidewalk width specified in VII. D. 3. below.
3. At the discretion of the City Engineer, a five foot minimum sidewalk may be permitted in other areas of the City.
4. In no case shall a structure be located within two feet of the curbline.

VIII. STANDARDS FOR ENCROACHMENT

A. Standards for Skystructures

The City Engineer will require skystructures to meet the following standards. Exception from these standards will require Design Committee review and advice to the City Engineer.

1. A skystructure's clearance over the street shall be 17 feet, 8 inches, with the exception that:
  - a. a lower clearance, but in no case lower than 17 feet, may be allowed where the applicant establishes to the City's satisfaction that extraordinary conditions would not require a higher clearance.

- b. a higher clearance may be required when the City determines that higher clearance is necessary to preserve a safe stopping sight distance, maintain access for moving oversized loads, avoid interference with sub-grade utility work, or other public purpose.
- 2. A skystructure shall be substantially at right angles to the center line of the street it crosses.
- 3. A skystructure shall be designed to appear symmetrical to the Street and to disguise any elevation difference between the buildings it connects within the bridge structure or within the adjoining building.
- 4. Signs, posters and banners visible to outside view shall not be permitted.
- 5. Skystructure column support located within street right-of-way shall be prohibited.
- 6. A skystructure shall be as small and transparent as possible to keep to a minimum the view obstruction it causes. Exterior walls shall be at least 70 percent fixed sash clear glass or clear plastic to allow for natural lighting and views of the street and to create the least visual impacts on the street vista.
- 7. To preserve the integrity of the intersection and to prevent obstruction of traffic signalss a skystructure should be located as near mid-block as possible.
- 8. A skystructure at or below the third story shall be equipped with underside sprinklers sufficient to suppress or retard a fire beneath it at street level.
- 9. Skywalk exterior dimensions normally shall not exceed a width of 14 feet and a height of 12 feet.
- 10. Skystructure design should be compatible with the building connected.
- 11. Enclosed skystructures connecting enclosed buildings should be heated, ventilated, and air conditioned.
- 12. Enclosed skystructures and through-building arcades should be lighted to provide a minimum of 30-foot candles of light throughout.
- 13. To provide for the public safety, skywalks with public access should be designed for maximum v-isual exposure of the interior from street level, - and vice versa.

14. To provide for maximum public access to a skywalk, direct visually noticeable connections should be provided in close proximity to the sidewalk at one or both ends of each s-kywalk.
15. Type II and Type III skystructures shall meet the following environmental standards:
  - a. Air Quality: 3As a general guideline, increase in CO levels over 0.5 mg/m shall be avoided, or ventilation underneath the structure shall be required.
  - b. Noise: The presence of the skystructure shall not increase noise levels:
    - 1) to or above Ldn = 70 dBA, or
    - 2) result in an increase in Ldn of 5 dBA or more over existing noise levels.
  - c. Light Level: At a minimum, light levels below a skystructure should meet the arterial tunnel lighting standard of 30-foot candles.
  - d. Wind: WhenVrequired by the City Engineer, the applicant must demonstrate that the skystructure will not increase wind velocities to adversely affect the pedestrians, building claddings or glass storefronts.

B. Standards for Skywalk- Networks and Skystructures in the Downtown Retail Core

In addition to the standards included in Section VIII., A., the following standards will apply to all skystructures in the Downtown Retail Core and skywalk networks.

1. Minimum skywalk interior width should be at least 12 feet.
2. Skywalks should be covered and have a minimum headroom of 8 feet.
3. Through-building arcades should have an unobstructed interior width of at least 16 feet and should be wider where uses along the arcade warrant.
4. Through-building arcades should be multi-level wherever possible to enhance the visual and functional linkage between the skywalk and ground levels.
5. As a minimum, vertical access (including stairs, elevators, and escalators) shall be provided at or near each end of the skywalk.

- a. Existing vertical access facilities shall be used wherever possible.
6. A reserved emergency vehicle parking space shall be located near a skywalk/sidewalk connection, whose location shall be approved by the Bureaus of Police and Fire.
7. A network should be equipped with uniform directional signing and network maps at each public access location that identifies the location of skywalk/sidewalk connections at both levels, routing, and the locations of through building arcade businesses and facilities .
8. Changes in level between buildings on opposite sites of a skyway or within through-building arcades shall be accomplished by ramp. If stairs are used in place of a ramps an elevator shall be available for handicapped access with adequate signage to facilitate usage.
9. Building owners shall be required to provide security, liability insurance, and maintenance for each skywalk.
10. Building owners should be encouraged to provide a diversity of activities in the through-building arcades, including but not limited to retail-space rest rooms art galleries, banks, travel agencies display cases 3 etc.

C. Standards for Below-Grade Structures

The following standards shall apply to the review of below-grade structures:

1. Underground structures shall have a minimum of 8 feet of headway.
2. Public access points to underground walkways should be clearly designated on street or ground level.
3. Underground walkways shall be kept clear of furniture or other forms of obstructions that may impede pedestrian flow.

## CHAPTER TWO: IMPLEMENTATION

### I. GENERAL POLICY PROCEDURES

- A. When encroachments are permitted by the City, the applicant(s) must pay all utility relocation costs and all added utility construction, reconstruction, repair and maintenance costs.

- B. When encroachments are permitted, the applicant must indemnify the City, its officers and employees against liability arising from the structures or the City's approval.
- C. The approval to construct an encroachment into the public right-of-way Will be granted by either a revocable permit or lease.
  - 1. A revocable permit will be issued by the City Engineer when the encroachment into the public right-of-way will have a public benefit and is available for public use. At grade encroachments shall only be permitted by revocable permit.
  - 2. A lease will be issued by the City Engineer when the encroachment has-a private use to benefit the occupants of the building and is not available to the general public. A lease will be issued only for above-grade and below-grade encroachments.
    - a) Prior to the issuance of the lease, the City shall meet the requirements established in ORS 271.430 for allowing private uses in the public right-of-way.
- D. All skystructures shall be classified as a "Major Project" for Design Committee review, and shall meet the requirements contained in Section 33.62.050 of the City Code.
- E. Encroachments and items not covered by this policy shall require review by the Design Committee, prior to action by the City Engineer and City Council.
  - 1. The procedures defined in 33.62 for Design Zones and 33.120 for Historic Districts, Buildings and Sites shall be followed.

## II. PROCEDURES

- A. Type I and Type II Skystructures, Building Projections, At-Grade and Below Grade Encroachments.
  - 1. The City Engineer shall inform the applicant of the procedures, conditions and standards required for approval.
  - 2. The City Engineer shall refer the application for encroachment, along with supporting materials, to the Bureau of Buildings, Fire, Parks, Planning, Police, Traffic Engineering Sanitary Engineering, Water, and other agencies and organizations deemed appropriate.

3. The following encroachments will require the additional public review and requirements:
  - a. Type I Skystructures, at-grade encroachments and underground walkways in Pedestrian Districts, Downtown and the Downtown Retail Core must be reviewed by the Design Committee who will advise the City Engineer.
  - b. Type II Skystructures shall be reviewed by the Design Committee, who will advise the City Engineer of their recommendations.
  - c. For Type II Skystructures, the City Engineer shall require the applicant to demonstrate that the standards for air quality and lighting will be met.
  - d. Building Projections shall be reviewed by the Planning Commission and Design Committee who will advise the City Engineer of their recommendations.
4. Upon receiving the written comments from the City bureaus and the Planning Commission and Design Committee when required, the City Engineer shall notify applicants of any required changes in the design.
5. The City Engineer shall prepare a staff report with recommendation for approval or disapproval. If approval is recommended, a-n ordinance incorporating the conditions of approval shall be prepared and submitted to the City Council. The City Engineer shall notify the appropriate neighborhood or business association if an encroachment is recommended for approval and submitted to City Council.
6. Land use cases containing an encroachment in the public right-of-way will be reviewed by the Hearings Officer, who will advise the City Engineer. The Hearings Officer's review will be scheduled before the final recommendation of the City Engineer to City Council. Procedures for land use reviews are contained in Chapter 2~ Section III, D, of this policy.
7. The permit fee will be specified by the City Engineer.
8. Variance to the standards contained in this policy shall be reviewed by the Design Committee for advice to the City Engineer.

B. Type III Skystructures

1. The procedure for Type III skystructures shall follow the same procedure as outlined above in I.A., and include the following:

- a. Pre-submission procedures An applicant shall request that the City Engineer arrange a pre-application conference at which the applicant shall submit a preliminary sketch of his proposal to representatives of the Bureaus of Buildings, Fire, Parks, Police, Planning, Street and Structural Engineering, Water, the appropriate neighborhood organization and other agencies and organizations deemed appropriate.

Following the conferences which shall be held no more than 14 days following the request of the applicant, the City Engineer will provide the applicant with a written summary of the meeting, including a recommendation to inform and assist the applicant in the preparation of an application.

- b. The applicant shall be required to submit reports, prepared by qualified individuals or firms, which address the following, and meet the standards contained in Chapter Two, Section I II . C .

- (1) air quality analysis,

- (2) light and shadow test analysis, and

- (3) noise analysis

- c. A wind analysis may be required by the City Engineer, based on City concerns at the pre-conference meeting.

- d. All Type III skystructures shall be reviewed by the Design Committee as a major project.

C. Skywalk Networks, Type I Skystructures and Underground Retail Malls in the Downtown Retail Core.

- 1. The procedures for approval of a skywalk network, a skywalk or a underground mall shall be the same as II. A. above) with the following additions.

- a. In the Downtown Retail Core, the Planning Commission and Design Committee shall review all proposed skywalk networks, skywalks, and-underground'malls and advise the City Engineer.

- b. Approved skywalk networks, skystructure, or underground mall will be subject to Design Committee review, according to 33e62 in the City Codes.

D. Land Use Cases Involving Encroachments in the Public Right-of-Way



1. The Bureau of Planning shall be responsible for coordinating land use cases, including conditional uses and variances, involving private structures in the public right-of-way with the City Engineer, to avoid unnecessary delays and duplication of staff efforts.
  2. A land use case containing an encroachment will be reviewed by the Hearings Officer as part of the land use review process. The Hearings Officer will advise the City Engineer on whether the encroachment is consistent with this Encroachment Policy and other adopted City policies.
  3. Bureau of Planning staff will be responsible for notifying the appropriate citizen committee for its review, including Planning Commissions Design Committee, Variance Committee, Historical Landmarks Commission, and District Advisory Councils.
- E. Underground Utilities
1. Underground utilities shall be required to meet the requirements of Title 17 Public Improvements
- F. Signs
1. Signs shall be required to meet the requirements of Title 32, Sign Co-de and Title 33, Planning and Zoning Code.

### III. APPLICATION REQUIREMENTS

- A. All applications for encroachments in the public rights-of-way subject to this procedure shall include ten sets of the following material:
1. Schematic plans of the proposed structure, with dimensions, at a scale of one inch equals 10 feet, or 1/8" = 1', or a comparable metric scale, and includes:
    - a. A plan view of each level, no less than two representative elevations; and transverse and longitudinal sections.
  2. A map at a scale of one inch equals 50 feet showing the location, material, and color of the proposed structure; the outlines of all existing or proposed buildings within 400 feet in both directions of the structure, each building's type of occupancy, and all major features of the area.
  3. A written statement of why the structure is necessary and why the City should approve it. Any documents or other materials the applicant can

provide in regard to the applicant's burden of proof under the policies and standards of the City-wide Policy on Encroachments in Rights-of-Way may be included

4. The applicant must provide the City with a signature of consent ^ of owners of the building being connected by the proposed skystructure or underground structure.
5. The applicant must provide the City with a legal description of the buildings to be connected by the proposed encroachment.
6. For Type I skystructures and for all building projections in the form of extensions of floor space over the sidewalk, the applicant shall also submit the following:
  - a. A color slide of the location of the proposed structure taken with a standard lens from 200 to 600 feet in both directions along the street the structure would cross on a day when the horizon is clearly visible.
  - b. Ten renderings or copies satisfactory to the City Engineer that accurately represent the appearance of the proposed structure from street level at 200 and 600 feet in both directions from the structure along the street the structure would cross, showing the horizon and all other important elements.
  - c. In the case of at-grade encroachments or sidewalk arcades, the applicant shall also submit ten copies satisfactory to the City Engineer of a rendering that accurately represents the structure's appearance from street level.

B. Applications for Type II skystructures, in addition to the requirements of II.A., also shall include the following:

1. A written statement by a qualified individual or firm which addresses the following:
  - a. Estimates of CO levels below the sky-structures
    - (1) The standard for CO level is contained in Chapter One, Section VIII. A.
  - b. Estimates of light levels in foot candles at representative locations beneath the structure at the street level under overcast and cloudless weather conditions on March 21, June 21, and December 21s at 12:00 noon and 3:00 p.m., Pacific Standard Time.

- (1) The standard for light levels is contained in Chapter One, Section VIII. A.
- C. Applications for Type III skystructures, in addition to the requirements of II. A. above shall be required to submit the following:
  - 1. Reports, prepared by qualified individuals or firms, which address the following:
    - a. Estimates of CO levels at representative locations below the skystructure, and meeting the standards in Chapter One, Section VIII. A.
    - b. Estimates of light levels in foot candles at representative locations beneath the structure at the street level under overcast and cloudless weather conditions on March 21, June 21 and December 21 at 12:00 noon and 3:00 p.m. Pacific Standard Time. The light level estimates shall be based on a scale model or computer simulation.
      - (1) The standard for noise level is contained in Chapter One, Section VIII.- A.
    - c. Estimates of noise level increase below and in the vicinity of the skystructure.
      - (1) The standard for noise level is contained in Chapter One, Section VIII. A.
    - d. Wind tunnel analysis of air circulation impacts of the skystructure beneath the structure and in its vicinity.
      - (1) The criteria for wind levels are contained in Chapter One, Section VIII. A.
    - e. A series of plan view maps at a scale of one inch to 50 feet showing the outlines of surrounding buildings the skystructure connects and estimating the shadow cast by a skystructure on a clear day at 12:00 noon and 3:00 p.m. Pacific Standard Time, on March 21, June 21, September 21, and December 21. The map shall distinguish shadows cast by the proposed skystructure from shadows cast by the buildings it connects or other buildings.
  - 2. Additional material may be required pending evaluation by City staff, Design Committee and public comments.

- D. Application for a skywalk network or links in the network shall include the following:
1. A plan for full network development or links in the network shall contain:
    - a. Skywalk and through-building arcade locations, dimensions, and schematic designs;
    - b. The location of public access from the sidewalk level, with conceptual designs,
    - c. Provisions for public amenities, such as restrooms and sitting areas,
    - d. Provision for coordinated signing;
    - e. Provisions for maintenance, crime prevention, security, and fire control,
    - f. Provision for business hour coordination; and
    - g. Provision for sidewalk improvements and other sidewalk amenities.
  2. Supporting documentation that will establish that:
    - a. The plan is consistent with this and all other City policies and requirements;
    - b. The network will interconnect with the street level sufficiently to ensure continued accessibility to street level retail and service commercial establishments and substantially unchanged street level pedestrian volumes;
    - c. Network applicants have sufficient support among building and business owners, and are sufficiently organized to ensure continuity in network development, to address such issues as security and maintenance responsibility, and business hour coordination, and to ensure successful implementation of the network plan.
    - d. Sidewalk improvement is consistent with the policies established in this policy.

3. All technical analysis supporting the applicant's submittals under this policy statement are described in sufficient detail to enable independent review.

#### IV. CONTENT OF INSTRUMENTS GRANTING APPROVAL OF STRUCTURES UNDER THIS PROCEDURE

- A. An approval issued under this procedure should contain, as a minimum, the following provisions, where appropriate. Each should be written to apply to the applicant.
  1. A provision that the applicant indemnify the City, its officers, and employees against liability arising from the structure or the City's approval.
  2. A provision that the applicant obtain insurance covering liability arising from the structure and the City's approval of it, up to the statutory maximum liability of the City, its officers, and employees the policy for which includes the City, its officers, and employees named insureds and provides for notification of the City Auditor or other appropriate City official in advance of the policy's cancellation.
  3. A provision that, as a precondition of the approval's effectiveness, the applicant submit to the City Auditor or other appropriate City officer satisfactory evidence of insurance.
  4. In the case of a permit, that the City may revoke the permit at pleasure of City Council and that the applicant at his own expense must remove the structure within 90 days of revocation and restore the street area to the satisfaction of the City Engineer.
  5. A description of the structure as approved, including location, clearance from the street (for skystructures), dimensions and other particulars.
    - (a) Any other particulars of the structure's design, use, or operation determined appropriate pursuant to the City-wide Policy on Encroachments in Public Right-of-Way.
  6. Provision for compensation to the City or to the public pursuant to the City-wide Policy on Encroachments in Public Right-of-Way.
  7. A provision that the permit does not exempt the applicant from complying with all other City rules and regulations, including laws requiring other licenses or permits.

8. In the case of a permit, a provision that as a precondition to the approval's effectiveness, the applicant must submit to the City Auditor a document approved by the City Attorney accepting the terms and conditions of the permit.
9. A provision that the applicant maintain the structure at his own expense.
10. A provision that the applicant complete construction of the structure within a fixed time following the commencement of its construction.
11. For a breach of any term or condition provided in the lease, the City may order the removal of the structure or may require compensation for any changes to the public health, safety and welfare.

## APPENDICES

City Council Resolution

CAC and TAC Committee Membership

Table I: Requirements for Encroachments in the Public Rights-of-Way

WHEREAS, the City Council has adopted the Arterial Streets Classification Policy, the Portland Downtown Plan, and other policies which are intended to provide guidance in the use of the public right-of-way; and

WHEREAS, the public rights-of-way provide for a number of public uses, including traffic movement, provision of light, air, open space and other amenities; and

WHEREAS, requests for encroachments in the public right-of-way, especially sky-structures, have increased in recent years, and encroachments can impair the public's use of the right-of-way; and

WHEREAS, the City Council, recognizing the need for policies and standards for encroachments in the public right-of-way, directed the Bureau of Planning to prepare such policies and standards for consideration by the Planning Commission and City Council; and

WHEREAS, the Bureau of Planning has prepared proposed policies and standards with the advice and assistance of a Citizens Advisory Committee and other City Bureaus; and

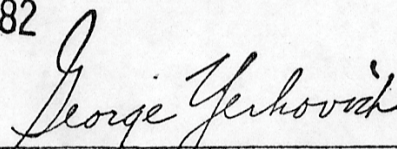
WHEREAS, the City Council adopted Sections I, II, III, IV, and VIII of Chapter One of the City-Wide Policy on Encroachments in the Public Right-of-Way on July 16, 1981, directing the Bureau of Planning to complete additional revisions to the policy.

NOW, THEREFORE, BE IT RESOLVED that the City Council adopts the City-Wide Policy on Encroachments in the Public Right-of-Way, attached as Exhibit A to this resolution; and

BE IT RESOLVED that the Commissioner of Public Works is directed to incorporate the recommended standards and procedures outlined in the policy into the City Engineer's review of encroachments in the public right-of-way; and

BE IT RESOLVED that the City Engineer and the Bureau of Planning are directed to prepare the necessary code revisions to implement this policy.

ADOPTED BY THE CITY COUNCIL: JUN 10 1982



Auditor of the City of Portland

Commissioner Mildred Schwab  
Stephen Iwata/dw  
March 22, 1982



## **CAC and TAC Committee Membership**

### **Citizens Advisory Committee**

Paul Brewer  
Donald Chapman  
Sunny Cunningham  
Jack Davis  
Carl George  
Martin Gix  
Howard Glazer  
Stan Goodell

Terrance O'Donnell  
Alex Pierce  
Kay Reid  
Robert Weil  
Al Staeli

Society of Industrial Realtors  
Association for Portland Progress  
Downtown Community Association  
Downtown Community Association  
Portland Retail Trade Bureau  
Downtown Community Association  
Citizens for Better Transit  
Portland Association of Building Owners and  
Managers  
Portland Historical Landmarks Commission  
Citizens for Better Transit  
Save Our Livable Downtown (S.O.L.D.)  
  
Citizens for Better Transit

### **Technical Advisory Committee**

Dave Beckman  
Steve Goetz  
Joan Hennick  
Paul Herman  
Mario Martini  
Doug Obletz  
Rod O'Hiser  
Kenneth Owens  
Glen Pierce  
Richard Vrooman  
Nancy Weisser  
Linda Wildman

Bureau of Buildings  
Bureau of Parks  
Bureau of Police: Crime Prevention  
Neighborhood Quality: Noise  
Traffic Engineering  
Portland Development Commission  
Bureau of Planning  
Fire Bureau  
Bureau of Street and Structural Engineering  
Water Bureau  
Bureau of Planning  
Bureau of Planning

**TABLE 1 : REQUIREMENTS FOR ENCROACHMENTS IN THE PUBLIC RIGHT-OF-WAY**

DISTRICTS	RETAIL CORE										DOWNTOWN										PEDESTRIAN DISTRICTS										CITY-WIDE																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																					
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